IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6064 OF 2002

S.G.Parekh .. Petitioner

Versus

Kshetre Mahabaleshwar Devasthan

Mahabaleshwar and Ors. .. Respondents

Mr.P.B.Shah for petitioner

CORAM : S.C.DHARMADHIKARI, J.

DATE : DECEMBER 16, 2004.

P.C.

. Learned Advocate, holding for Mr.P.B.Shah, learned Counsel for petitioner applies for time. The matter is of 2002 and this Court had directed issuance of notice to

respondents on 7th April 2003 and granted interim relief in terms of prayer clause (d) of the petition, thereby staying the execution and enforcement of the decree passed by the trial court and confirmed by the lower appellate court against petitioner.

2. Respondent Trust has filed an affidavit in this court in which it is pointed out that in Regular Darkhast proceedings initiated after the lower appellate court's judgement, possession of the suit premises has been taken by the Landlord Trust on 13th August 2002 and a bailiff report is also filed. This was done prior to this Court passing the above mentioned order.

3. Even otherwise, in my view, this is not a fit case for interference under Article 227 of the Constitution of India. Suit of respondent Trust for possession of the suit premises on the ground of non user has been decreed by the courts

below. The findings in that behalf have been confirmed by the lower appellate court. A finding of fact consistent with materials placed on record has been rendered holding that the premises in question have not been used by petitioner Union. Having perused the judgement, in my view, a Union which has its head office at Mumbai and district office at Satara, could not establish that it was using the suit premises for its activities during relevant time. This being the position, petition is dismissed. *****